

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:) Case No: B-1180782 C-13D
ANGELA L. HAYNIE,)
)
)
Debtor(s))
)
_____)

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee (“Trustee”) and respectfully objects to confirmation of the Debtor’s plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtor filed a petition under Title 11 of the United States Code, Chapter 13, on May 13, 2011, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On May 13, 2011, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Local Rule 83.11 entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The plan filed by the Debtor proposes a monthly payment of \$2,852.00 for a period of at least 36 months. No dividend is provided to unsecured creditors.
5. Wells Fargo Bank (“Wells Fargo”) has filed a claim in the amount of \$126,730.66 secured by the Debtor’s real property at 4 Thebes Place, Durham, NC (“the residence”). The claim asserts ongoing monthly mortgage payments of \$1,073.59 and an arrearage through August of 2011 in the amount of \$14,002.18. The Debtor’s plan proposes to pay the claim of Wells Fargo as a long-term debt through the Trustee’s office and the arrearage as a secured claim with monthly payments of \$233.37.
6. Deutsche Bank (“Litton”) has filed a claim in the amount of \$53,547.50 secured by real property located at 1308 Liberty Street, Durham, NC. The Debtor proposes to value this property at \$31,100.00 and pay the secured value with interest at the rate of 5.25% per annum in monthly installments of \$595.00.

7. BAC Home Loans (“BAC”) has filed a claim in the amount of \$96,506.99 secured by real property located at 1209 Liberty Street, Durham, NC. The Debtor proposes to value this property at \$20,900.00 and pay the secured value with interest at the rate of 5.25% per annum in monthly installments of \$398.00.
8. GMAC Mortgage (“GMAC”) is listed as holding a deed of trust against property located at 1402 Liberty Street, Durham, NC. The Debtor proposes to value this property at \$24,100.00 and pay the secured value with interest at the rate of 5.25% per annum in monthly installments of \$458.00.
9. The Internal Revenue Service (“IRS”) has filed an unsecured priority claim in the amount of \$17,118.92 that must be paid in full pursuant to 11 U.S.C. §1322(a)(2).
10. The Trustee objects to confirmation of the plan in that the Debtor’s proposed plan payments are not sufficient to satisfy the long-term debt of Wells Fargo, the arrearage claim of Wells Fargo, the secured debt payments to Litton, BAC and GMAC, the unsecured priority claim of the IRS, and any other secured and priority claims within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtor’s plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. That, in the alternative, the Debtor’s plan payments be increased to \$3,235.00 per month for 60 months; or
3. For such other and further relief as the Court may deem just or proper.

This the 16th day of August, 2011.

/s/ Benjamin E. Lovell
Benjamin E. Lovell
Attorney for the Trustee
State Bar No: 23266
P.O. Box 3613
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Angela L. Haynie, 4 Thebes Pl., Durham, NC 27703, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 16th day of August, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell, Esq.

Attorney for the Standing Trustee